

UNITED STATES OF AMERICA)
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v.)
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Manning, Bradley E.)
PFC, U.S. Army,)
HHC, U.S. Army Garrison,)
Joint Base Myer-Henderson Hall)
Fort Myer, Virginia 22211)

Scheduling
Order

25 April 2012

1. The Court is currently scheduling Article 39(a) sessions with the following default schedule at the request of the parties: two weeks for parties to file motions; two weeks for parties to file responses; five days for parties to file replies; and one week for the Court to review all pleadings before the start of the motions hearing. The time for filing replies was added after the first Article 39(a) session on 15-16 March 2012 because the Court received reply briefs the day before that session, the parties desire to continue to file replies, and the Court requires time to consider them.

2. Scheduling dates and suspense dates are set forth below. This schedule was coordinated with the parties. The trial schedule will be reviewed and updated as necessary at each scheduled Article 39(a) session.

a. Phase 1. Immediate Action (21 February 2012 - 16 March 2012)

b. Phase 2(a). Legal Motions excluding Evidentiary Issues (29 March 2012 - 26 April 2012)

- (A) Filing: 15 March 2012
- (B) Response: 12 April 2012
- (C) Reply: 17 April 2012
- (D) Article 39(a): 24-26 April 2012

(1) Defense Motion to Dismiss all Charges and their Specifications with Prejudice

(2) Government Motion for Appropriate Relief to Preclude Actual Harm or Damage from the Merits Portion of Trial

(3) Defense Motion to Dismiss Article 104 Offense

(4) Defense Motion to Dismiss Specification 1 of Charge II

(5) Defense Unreasonable Multiplication of Charges Motion

(6) Defense Renewal for Motion to Compel Discovery of Computers

(7) Defense Renewal for Bill of Particulars

(8) Reciprocal Discovery Requests

(9) MRE 404(b) Disclosures

(10) Updated Proposed Case Calendar

(11) Results of Hard Drive Searches to Defense in Response to Defense Motion to Compel Discovery #1

(A) Date: 20 April 2012

(12) Government Notification to Court Whether Relevant Files Exist with DOS, FBI, DIA, ONCIX, and CIA

(A) Filing: 20 April 2012

(13) Government Notification to Court of Whether it Anticipates Limited Disclosure or Claim of Privilege, based on (12) above

(A) Filing: 20 April 2012

(14) Protective Order – Defense Publication of Its Motions

(A) 29 March 2012/2 April 2012/12 April 2012/17 April 12 – defense notifications and redactions

(B) 17 April 2012/19 April 2012 – Government Objections and Motions for Protective Order

(C) 20 April 2012 – Defense Replies

(15) Defense Motion to Reconsider Compel Discovery – Grand Jury (unscheduled)

c. Phase 2(b). Legal Motions (10 May 2012 - 8 June 2012)

(A) Filing: 10 May 2012

(B) Response: 24 May 2012

(C) Reply: 29 May 2012

(D) Article 39(a): 6-8 June 2012

(1) Defense Motion to Dismiss All Charged Offenses under 18 U.S.C. 793(e)

(2) Defense Motion to Dismiss All Charged Offenses under 18 U.S.C. 1030(a)(1)

(3) Government and Defense Motions for Proposed Lesser Included Offenses

(4) Defense Motion to Compel ONCIX, DOS, FBI investigation IAW RCM 701(a)(2)

(5) Government Motion to Reconsider Motion to Compel DOS Damage Assessment

(6) Defense Motion to Exclude Uncharged Misconduct (MRE 404(b))

(7) Updated Proposed Case Calendar

- (A) Filing: 24 May 12
- (B) Response: 29 May 12

(8) Disclosure of Unclassified Results of 3 Damage Assessment Searches to Defense in Response to the Court's Ruling, 30 March 2012

- (A): 18 May 2012

(9) Disclosure under RCM 701(g)(2) or MRE 505(g)(2) of all Information (Unclassified and Classified) to the Court in Response to the Court's Ruling, 30 March 2012

- (A): 18 May 2012

(10) Government Filing for In Camera Proceeding IAW MRE 505(i) with Notice to Defense (if Privilege is Claimed) in Response to the Court's Ruling, 30 March 2012 (Disclosure Issues)

- (A): Filing: 18 May 2012
- (B): Response: 29 May 2012
- (C): Reply: N/A
- (D): Article 39(a): 6-8 June 2012

(11) Court Rulings based on *in camera review* of damage assessments

- (A): Article 39(a): 6-8 June 2012

d. **Phase 3a. Evidentiary Issues (22 June 2012 - 20 July 2012)**

- (A) Filing: 22 June 2012
- (B) Response: 6 July 2012
- (C) Reply: 11 July 2012
- (D) Article 39(a): 16-20 July 2012

(1) Defense Motion to Compel Discovery #2 (if any)

(2) Government Motion to Compel Discovery (if any)

(3) Motions *in Limine* (Evidence Discovered to Date)

(4) Motions to Suppress (Evidence Discovered to Date)

(5) Pre-Authenticate/Pre-Admit Evidence

(6) Requests for Judicial Notice

(7) Witness Lists Exchanged/Compel Witnesses & Experts

- (A) Filing: 22 June 2012
- (B) Government Objection to Defense Witnesses: 6 July 2012
- (C) Motion to Compel Production: 11 July 2012
- (D) Response: 13 July 2012

(8) **Proposed Members Instructions for all Charged Offenses**

(9) **Motion for Clarification of Brady material**

(10) **Defense Notice of Intent to Disclose Classified Information under MRE 505(h)(1) (For Discovery Received – Motion to Compel #1)**
(A) Filing: 22 June 2012

(11) **Defense Notice of Plea/Forum**

(A) Filing: 11 July 2012

(12) **Updated Proposed Case Calendar**

(A) Filing: 6 July 2012
(B) Response: 11 July 2012

(13) **Proposed Questionnaires** – the parties will confer and arrive at a questionnaire Before the Article 39(a) session 16-20 July 2012. Issues of disagreement will be addressed at the Article 39(a) session where the questionnaire will be approved and submitted to detailed members and alternates for response NLT 3 August 2012.

c. **Phase 3b. Evidentiary Issues (3 August 2012 – 31 August 2012)**

(A) Filing: 3 August 2012
(B) Response: 17 August 2012
(C) Reply: 22 August 2012
(D) Article 39(a): 27-31 August 2012

(1) **Motions *in Limine* (Classified Information not previously Disclosed)**

(2) **Motions to Suppress (Classified Information not previously Disclosed)**

(3) **Article 13**

(A) Filing: 27 July 2012¹
(B) Response: 17 August 2012
(C) Reply: 22 August 2012
(D) Article 39(a): 27-31 August 2012

(4) **Speedy Trial, including Article 10**

(A) Filing: 27 July 2012²
(B) Response: 17 August 2012

¹ The filing date of one week earlier for the defense motions is in accordance with their schedule to give the United States the necessary time to respond.

² The filing date of one week earlier for the defense motions is in accordance with their schedule to give the United States the necessary time to respond.

- (C) Reply: 22 August 2012
- (D) Article 39(a): 27–31 August 2012

(5) Pre-Qualify Experts

(6) Government Filing for In Camera Proceeding IAW MRE 505(i) with Notice to Defense (if Privilege is Claimed) in Response to the Court's Ruling, 30 March 2012 (Use as Evidence) and Other Remaining Litigation Concerning MRE 505(h) and MRE 505(i)³

(7) Production of Compelled Discovery for Defense Motion to Compel Discovery #2 or Production of Limited Discovery under MRE 505(g)(2) or (3) or Notification to Court of Claim of Privilege under MRE 505(c)

(8) Production of Compelled Discovery for Government Motion to Compel Discovery

(9) Defense Additional Witness List in light of Information in Defense Motion to Compel Discovery #2. Defense Notice of Intent to Disclose Classified Information under MRE 505(h) from Compelled Discovery #2.

(10) Updated Proposed Case Calendar

- (A) Filing: 17 August 2012
- (B) Response: 22 August 2012

f. Phase 4. Miscellaneous Motions (1 September 2012 – 21 September 2012)

(1) Any Additional Motion that does not have an Identified Deadline

- (A) Filing: 7 September 2012
- (B) Response: 14 September 2012
- (C) Article 39(a): 19-20 September 2012

(2) Grunden Hearing for all Classified Information

- (A) Filing: 7 September 2012
- (B) Response: 14 September 2012
- (C) Article 39(a): 19-20 September 2012

(3) Voir Dire Questions, Flyer, Findings/Sentence Worksheet, all CMCO

- (A) Filing for Court Review: 14 September 2012
- (B) Article 39(a): 19-20 September 2012

g. Phase 5. Trial by Members (20 September 2012 – 12 October 2012)

³ Government advised the Court will need 15 duty days to review discoverable material.

(1) Voir Dire: 21 September 2012
(2) Trial: 24 September 2012 – 12 October 2012

So Ordered this 25th day of April 2012.



DENISE R. LIND
COL, JA
Chief Judge, 1st Judicial Circuit